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OFFICE OF PETITIONS

In re Application of
Jack V. Smith
Application No. 09/898,958
Filed: July 3, 2001
Title of Invention: **INFLATABLE BOX**

DECISION ON PETITION

This is a decision on the petition filed November 13, 2007 under 37 CFR 1.137(b)¹ to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned as a result of petitioner's failure to file a proper appeal brief. A Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed September 29, 2005 setting the longer of one month or 30 days for reply. No response having been filed, a Notice of Abandonment was mailed July 6, 2006.

Petitioner has submitted a Request for Continued Examination (RCE) and requests that the previously filed amendment be used as the submission required under 37 CFR 1.114.

As well additional independent claims were submitted. However, the credit card used to pay the fees associated with the instant petition, RCE and independent claims was

¹ Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m),

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).